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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,259	10/29/2001	Tucker L. Smith	9696	2587

7590 07/17/2007

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ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
07/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/008,259	SMITH ET AL.
	Examiner	Art Unit	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 April 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.　　Claims 1-24 have been examined. Application 10/008,259 (SYSTEM AND METHOD FOR PROFILING DIFFERENT USERS HAVING A COMMON COMPUTER IDENTIFIER) has a filing date 10/29/2001.

Response to Amendment

2.　　In response to Final Rejection filed 12/11/2006, the Applicant filed an RCE on 04/13/2007, which amended claims 1-5, 7, 12, 13, 16-19, 23 and 24. Applicant's amendment overcame the Claim 19 objection.

Claim Rejections - 35 USC § 112

3.　　The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Said claims recite "the generated user identifier key indicating the generated user profile history is associated with a user that is different than a user associated with the key stored in the memory. Applicant's specification simply discloses generating a user profile history from activity data and, if the activity data does not match an activity data already stored in memory, then generating a new user profile history (see page

10). However, Applicant's specification is not enabling in describing how to determine if said generated new user profile history is from the same user or from another user.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 13 recites "generating a user identifier key *from the key data* and *generating* a user profile history from the extracted profile data in response to the *key data corresponding to a key stored in the memory and the* extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory; storing the generated user *identifier key in the memory; and storing the generated user* profile history in *the memory in* association with the generated user identifier key and the key *to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded.* Said limitation is indefinite because it is not clear how the generated user identifier key indicates that the generated user profile history is associated with a user that is different from a user associated with the key stored in the memory. For purpose of art rejection, said limitation would be interpreted as simply correlating user profile history data with previously stored user profile history data in order to better identify a user's preference

and better target ads to said user. Claim 13 recites *"but both the generated user profile history and the user profile history stored in the memory are associated with the key that corresponded to the key data"*. For purpose of art rejection said limitation would be interpreted as meaning generating more that one profile for a user based upon said user activity or transaction data.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Blasko (US 2001/0049620).

As per claim 13, Blasko teaches:

A method for profiling different users having a common terminal identifier comprising:

storing user profile histories in a memory, each user profile history being stored in *the memory in* association with a key (see paragraphs 129-130).

receiving *the* user activity data at a server from clients over a computer network (see paragraph 150);

receiving user activity data from the server (see paragraphs 50-53);

extracting profile data from the user activity data (see paragraph 96);

searching the user activity data for key data that identifies one of a user terminal and a user account (see paragraphs 133, 113 "random ID or MAC-ID"; paragraph 53 "profile ID"; paragraph 66 "social security number"; paragraph 116 "profile vectors may be tracked by virtual identifiers such as a random ID and this ID may act as a profile vector identifier");

determining whether the key data located in the user activity data corresponds to a key stored in the memory (see paragraph 52 "profile vector having a transaction ID may be compared against previously store profile vectors to determine suitable advertisements");

generating a user identifier key *from the key data* and *generating* a user profile history from the extracted profile data in response to the *key data corresponding to a key stored in the memory and the* extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory; storing the generated user *identifier key in the memory; and storing the generated user* profile history in *the memory in* association with the generated user identifier key and the key *to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data*

corresponded but both the generated user profile history and the user profile history

stored in the memory are associated with the key that corresponded to the key data.

Blasko teaches creating transaction profile vectors based on or more actions in a

transaction and transmitting said vectors to a correlation server, which stores them

along with specific profile vectors, wherein profile ID are used to correlate said vectors

with previously stored vectors (see paragraphs 20, 21, 77-78).

As per claim 14, Blasko teaches:

The method of claim 13 wherein the profile data is extracted from session data

(see paragraph 96).

As per claim 15, Blasko teaches:

The method of claim 13 wherein the profile data is extracted from browse period

data (see paragraphs 96 and 117).

As per claim 16, Blasko teaches:

The method of claim 13 the determination that the key data corresponds to a key

stored in the memory includes: comparing a site identifier and a resource identifier in

the extracted profile data with the site identifiers and resource identifiers in *user* profile

histories stored in the memory (see paragraphs 117, 160) .

As per claim 17, Blasko teaches:

The method of claim 16, the comparison of the site identifier and the resource

identifier *in the extracted profile data* to site identifiers and resource identifiers in user

profile histories further comprising:

detecting a low level of correspondence between the site identifier and the resource identifier of the extracted profile data and the site identifiers and resource identifiers in a user profile history stored in the memory (see paragraphs 130-131).

As per claim 18, Blasko teaches:

The method of claim 16 wherein the profile data extraction extracts metadata associated with the site identifier and the resource identifier *in the extracted profile data* (see paragraph 117).

As per claim 19, Blasko teaches:

The method of claim 16 further comprising:

identifying a user at a terminal *identified by a computer identifier* that generated the user activity data received by the server by determining which one of at least two *user* profile histories, *each of which is stored in the memory in association* with a key, *each key being associated with the computer identifier* corresponds with the extracted profile data and selecting an advertising file for transmission to the terminal, the selected advertising file corresponding to the identified user (see paragraphs 20, 21, 87, 130).

As per claim 20, Blasko teaches:

The method of claim 16 wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares cookies (see paragraphs 92 and 96).

As per claim 21, Blasko teaches:

The method of claim 16 wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares Internet Protocol (IP) addresses (see paragraph 96).

As per claim 22, <u>Blasko</u> teaches:

The method of claim 18 wherein the profile data extraction extracts a subscriber identifier that identifies a subscriber site on a cable television network (see paragraphs 104-105).

As per claim 23, <u>Blasko</u> teaches:

The method of claim 22 wherein the profile data extraction extracts a tuned channel identifier and metadata, the tuned channel identifier identifying a transmission channel to which a receiver is tuned at the identified subscriber site and the metadata identifies program content on the tuned channel (see paragraphs 104, 105, 121, 150).

As per claim 24, <u>Blasko</u> teaches:

The method of claim 23 further comprising:

identifying a user at the subscriber site *identified by the subscriber identifier* by determining which one of at least two *user* profile histories, *each of which is stored in the memory in association* with *a key, each key being associated with the* subscriber *identifier for the subscriber* site *at which the user tuned the channel,* corresponds with the *extracted* profile data (see paragraph 114) and selecting an advertising file for transmission to the subscriber site, the selected advertising file corresponding to the identified user (see paragraph 150) .

Claims 1-12 are system claims which contains the same limitations as claims 13-24.

Response to Arguments

5.   Applicant's arguments filed 04/13/2007 have been fully considered but they are not persuasive. The Applicant argues that <u>Blasko</u> does not teach the limitation that enables the user profile generator to detect a new user at a device for which a user profile history has been previously stored and to identify a new user in a unique manner. The Examiner answers that Applicant's <u>specification</u> is not enabling in determining how to detect a new user at a device for which a user profile history has been previously stored and to identify a new user in a unique manner. Applicant's specification simply discloses generating a user profile history from activity data and generating a new user profile history if said activity data does not match previously stored activity data. <u>Blasko</u> generates a user profile history from activity data (see paragraphs 96-97), correlates said profile history with previously stored profile vectors and target ads based upon said correlation (see paragraphs 21, 22, 56). Therefore, contrary to Applicant's argument, <u>Blasko</u> teaches Applicant's claimed invention.
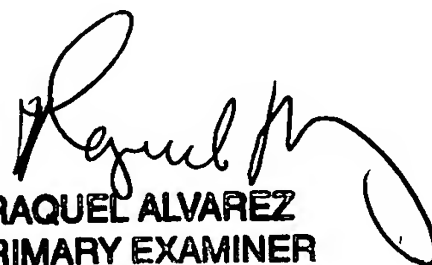
The Applicant argues that nothing in <u>Blasko</u> compares the data in profile vectors previously stored for the user with the user profile vectors generated by the local profiler. The Examiner answers that <u>Blasko</u> teaches that the profile vectors would be compared to archive profile vectors to determine viewer receptiveness to a particular ads (see paragraph 154). Therefore, contrary to Applicant's argument, <u>Blasko</u> teaches Applicant's claimed invention.

The Applicant argues that <u>Blasko</u> fails to teach that the correlation server stores the current profile vector with a profile identifier that is different than the profile identifier for the previously stored profile vectors if the user identification can be correlated to an identifier for previously stored profile vectors but the current profile vector fails to correspond with the previously stored profile vectors associated with the profile identifier stored in the correlation server. The Examiner answers that <u>Blasko</u> compare profile vectors with previously archive profile vectors in order to identify a user and determine said user receptiveness to a particular advertisement (see paragraph 154). Therefore, contrary to Applicant's argument, <u>Blasko</u> teaches Applicant's claimed invention.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

RAQUEL ALVAREZ
PRIMARY EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
July 1, 2007